

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

OCT - 3 2002

Cynthia A. Lewis
Beveridge & Diamond, P. C.
Suite 700
1350 I. Street, N.W.
Washington, DC 20005-3311

Dear Ms. Lewis:

This letter is in response to your initial inquiry of August 21, 2002, and is a follow-up to our response letter dated September 17, 2002. In your letter, you asked, "Do the PCB spill cleanup requirements depend on the concentration of PCBs within process equipment before a spill?" During our phone conversation on September 3, 2002, you clarified that this process equipment is actually manufacturing equipment in which PCBs are inadvertently generated (i.e., manufactured as a byproduct). According to your letter, this process generates PCBs at concentrations of less than 50 ppm, but a spill has occurred and the spilled material contains PCBs at concentrations of greater than 50 ppm. You requested clarification on how to treat the spilled material.

Inadvertently generated PCBs are defined under the definition of "PCB and PCBs" at 40 CFR 761.3. The definition states that, "...inadvertently generated non-Aroclor PCBs are defined as the total PCBs calculated following division of the quantity of monochlorinated biphenyls by 50 and dichlorinated biphenyls by 5." PCBs may be inadvertently generated during an "excluded manufacturing process" provided the conditions listed under the definition of "excluded manufacturing process" at 40 CFR 761.3 are met. One condition is that the concentration of inadvertently generated PCBs must have an annual average of less than 25 ppm. Another condition is that the maximum concentration of PCBs in the process must not exceed 50 ppm. Additionally, any other process wastes greater than or equal to 50 ppm PCBs must be disposed of in accordance with subpart D of part 761.

Therefore, if material is spilled from the process equipment and the concentration of PCBs is greater than or equal to 50 ppm, the spilled material must be treated at the as-found concentration and be disposed of in accordance with the disposal provisions in subpart D of part 761. Since the process is constantly creating new PCBs and your client has discovered PCBs in excess of 50 ppm in materials removed from the process, we strongly believe that it is more

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likely that the process generated a batch of material containing PCBs in excess of the 50 ppm maximum rather than the volatilization of the PCBs from a concentration of less than 50 ppm during the process to a concentration greater than or equal to 50 ppm after removal from the process. EPA does not believe that PCBs from an excluded manufacturing process would consistently be less than 50 ppm within the process and then consistently volatilize to concentrations in excess of 50 ppm once they leave the process. If PCBs are present in excess of 50 ppm, EPA recommends that your client institute a more rigorous testing scheme on the material within the process to demonstrate compliance with the regulations and confirm the method by which the spilled material is testing in excess of 50 ppm PCBs.

Please note that manufacturers with processes that inadvertently generate PCBs must also follow all record-keeping and reporting requirements in 40 CFR 761.185 and 761.187.

If you have any further questions regarding these issues, please feel free to contact me at (202) 566-0514.

Sincerely,

A handwritten signature in black ink, appearing to be '15/' or similar, written over a horizontal line.

Tony Baney, Chief
Fibers and Organics Branch

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

OCT 24 2002

Cynthia A. Lewis
Beveridge & Diamond, P. C.
Suite 700
1350 I Street, N.W.
Washington, D.C. 20005-3311

Dear Ms. Lewis:

This letter is a follow-up to your letter dated October 16, 2002 and to the phone conversation we had on October 21, 2002. You asked for clarification on the issues discussed in our previous letters.

In response to your first issue, we are confirming that when using the 3 ppb limit found at 40 CFR 761.79(b)(1)(ii), EPA is only concerned with the concentration of PCBs at the final point of discharge from the system. EPA is not concerned with the concentration of PCBs at any other point inside the wastewater treatment system. The only limit that must be met is the 3 ppb limit at the point at which final discharge to the environment occurs or at a sampling point specified in a National Pollutant Discharge Elimination System (NPDES) permit.

In response to your second issue, EPA is confirming that if a NPDES permit exists, but the permit does not specify sampling points for PCBs, then the sampling point is the point at which final discharge to the environment occurs. The location of sampling points for other pollutants specified in the permit is not relevant to PCBs.

If you have any further questions regarding these issues, please feel free to contact me at (202) 566-0514.

Sincerely,



Tony Baney, Chief
Fibers and Organics Branch

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SURNAME	S.M. Guld						
DATE	10/23/02						

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